

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

LOSHAW THERMAL TECHNOLOGY, LLC

and

INTERNATIONAL ASSOCIATION OF HEAT AND
FROST INSULATORS AND ASBESTOS WORKERS,
LOCAL UNION NO. 23

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: Case: 5-CA-158650
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**RESPONDENT'S EXCEPTIONS TO THE DECISION OF
ADMINISTRATIVE LAW JUDGE ERIC M. FINE**

COMES NOW counsel for Respondent, Loshaw Thermal Technology, LLC (referred to herein as "Loshaw" or "Respondent" hereby files and respectfully requests the Board to consider the following Exceptions to the Decision of Administrative Law Judge Eric M. Fine, which was issued on July 7, 2016.

1. To the Administrative Law Judge's failure to fully relate Michael Bittner's testimony regarding his resignation from the Union. (ALJD, p.6, ll.4-10 and elsewhere)
2. To the Administrative Law Judge's completely unsupported finding that "it was likely Respondent's officials suspected DeLozier of being a union member and supporter." (ALJD, p.11, ll.34-35)
3. To the Administrative Law Judge's finding that a Section 9(a) relationship was established at the time Respondent entered into the 2012 collective bargaining agreement.

(ALJD, p.11, ll.35-39)

4. To the Administrative Law Judge's extremely selective crediting and discrediting of the testimony of Michael Bittner. (ALJD, p.13, ll.1-2; p.14, ll.4-5, and elsewhere)

5. To the Administrative Law Judge's completely unsupported finding that Michael Bittner was "under pressure to support Respondent's claims." (ALJD, p.13, l.5)

6. To the ALJ's reliance upon the fact that Michael Bittner had not sought to become a financial core member of the union rather than a full member. (ALJD, p.13, ll.5-9; p.14, ll.1-2)

7. To the Administrative Law Judge's finding that Respondent told Michael Bittner it would be futile for him to remain a union member. (ALJD, p.14, ll.16-18 and ll.30-31)

8. To the Administrative Law Judge's finding that Michael Bittner's discussion with his family members constituted interrogation and coercion within the meaning of Section 8(a)(1) of the Act. (ALJD, p.14, ll.27-35)

9. To the Administrative Law Judge's failure to find that the Union had advised Respondent that it could hire whoever it wanted despite Michael Bittner's uncontroverted testimony and the absence of any evidence that the Respondent had ever been required to comply with the hiring provisions of the collective bargaining agreement. (ALJD, p.15, ll.21-32)

10. To the Administrative Law Judge's unsupported conclusion that any statements made by Michael Bittner concerning his desire to not be in the union were a direct result of Respondent's unfair labor practices. (ALJD, p.16, ll.5-8)

11. To the Administrative Law Judge's finding that Respondent violated Section 8(a)(5) and (11) of the Act by withdrawing recognition from the Union. (ALJD, p.16, ll.8-45)

12. To the Administrative Law Judge's Conclusions of Law No. 3, 4, 5 and 6 (ALJD, p.17, ll.8-29)

13. To the Administrative Law Judge's proposed Remedy and Order. (ALJD, p.17,
l.33 - p.20, l.3)

Respectfully submitted,

HARMON & DAVIES, P.C.

Dated: August 4, 2016

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing Respondent's Exceptions to the Decisions of the Administrative Law Judge this 4th day of August, 2016, with true and correct copies being sent via first class mail to the following:

Andrew Andela, Esq.
National Labor Relations Board
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William McGee
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